

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
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Calling Party Pays Service Options )  
in the Commercial Mobile Radio Services )  
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WT Docket No. 97-207

**REPLY COMMENTS OF THE AD HOC  
TELECOMMUNICATIONS USERS COMMITTEE**

**INTRODUCTION**

The Ad Hoc Telecommunications Users Committee ("Ad Hoc") hereby replies to the comments filed in response to the Commission's Notice of Inquiry ("NOI")<sup>1</sup> in the above-captioned matter. In this reply, Ad Hoc addresses solely the consumer protection issues raised by the NOI and discussed only superficially by carrier advocates of "Calling Party Pays" ("CPP").<sup>2</sup> Whatever the merits of CPP, and they appear to be dubious from the consumer's standpoint,<sup>3</sup> Ad Hoc urges the Commission to weigh them carefully against the potential adverse impact of CPP on consumers.

<sup>1</sup> *Calling Party Pays Service Option in the Commercial Mobile Radio Services*, WT Dkt. No. 97-207, Notice of Inquiry, FCC 97-341, (released Oct. 23, 1997).

<sup>2</sup> See e.g., Comments of Cellular Telecommunications Industry Association (filed Dec. 16, 1997) and Comments of AT&T Wireless Services, Inc. (filed Dec. 16, 1997) in response to the NOI.

<sup>3</sup> The competitive problems that Commercial Mobile Radio Service ("CMRS") providers claim will be cured by CPP would also be overcome – with no adverse impact on consumers – if CMRS providers simply priced incoming calls on a flat-rated basis, as wireline carriers do.

## DISCUSSION

The CPP arrangement for wireless services that is described in this NOI is without precedent in the world of telecommunications. If allowed, wireless service would be the only service in which the party who pays for a call will be forced to incur charges imposed by a carrier selected by the called party.<sup>4</sup> Charges for wireless airtime and other service components that may be applicable will thus be both unknown and uncertain to the party who will ultimately be billed.<sup>5</sup> As the NOI recognizes, an effective process for informing callers of the impending imposition of such charges is truly a *sine qua non* for the approval of any CPP mechanism. The Commission must reject CCP mechanisms that do not include failsafe mechanisms for notifying callers of, and providing callers with an opportunity to protect themselves from such charges.

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<sup>4</sup> The closest parallel to such an arrangement lies in the routing of calls placed from public telephones and hotel trunks to the carrier and/or operator service provider selected by the owner of the premises upon which such service is terminated. However, even in such cases, individual callers may override the presubscribed carrier by dialing a 10XXX access code or an 800/888 number. Collect calls are another instance where the party responsible for payment is not the party selecting the service provider, but in this case the former is informed that a charge will apply and is given a chance to decline the call.

<sup>5</sup> Prices for wireless services are not regulated at either the state or the federal level, and carriers may not be required to file tariffs covering CPP charges with any regulatory agency. Accordingly, not only would the calling party who is to be held responsible for payment not know the specific charges that will apply for a given call, that information may not even be ascertainable without extensive effort and research. In order to determine the CPP charge, the caller would first have to discover that the specific telephone number is in fact a wireless CPP telephone, then identify the specific wireless carrier to whom that number has been assigned and a means for contacting that provider, and finally initiate contact with the terminating wireless carrier to inquire as to the magnitude of any applicable CPP charges.

The NOI invites comment on possible means for notifying callers as to the applicability and amount of any CPP charges for a given call prior to the completion of the call connection process.<sup>6</sup> One of the alternatives identified in the NOI is the use of an intercept type of recorded message, affording the caller the ability to either hang up before any charges are incurred or enter one or more digits on the touch tone pad to indicate the customer's willingness to pay the applicable fees.<sup>7</sup> Such an arrangement would be roughly analogous to the manner in which collect calls are delivered to the called party.

This scheme might be adequate, although somewhat cumbersome, for calls originated from single-line residential and business telephones; however this type of notification scheme would not work and is therefore entirely unacceptable in most business settings because calls are often routed through a PBX or other business telephone system in which call management procedures are in effect. Unless the PBX switch can readily identify a given call as involving CPP charges, it will have no means for screening, blocking, or even accounting for such charges if the call is otherwise permitted to go through. And PBX switches cannot recognize and respond to call intercepts.

Another possibility suggested by the Commission is the transmission of a standard tone to identify calls that are subject to CPP charges.<sup>8</sup> Such tones can in

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<sup>6</sup> NOI at ¶ 21.

<sup>7</sup> NOI, at ¶ 20.

<sup>8</sup> NOI, at ¶ 20.

theory be recognized by a PBX, which could then disconnect or afford some other special treatment to calls placed to CPP numbers. While such an arrangement may someday be possible, it is not viable for the present. The vast majority of existing PBXs simply do not possess either the hardware or the software necessary to correctly interpret and process such tones so that calls to CPP numbers can be blocked.

Alternatively, rather than simply block all calls to CPP numbers, the PBX customer might want to permit the call to go through but record the call details, including the associated charges, via Station Message Detail Recording (SMDR) functions so that the cost can be charged back to the appropriate calling PBX station line. For that purpose, the PBX customer would have to acquire and install the necessary tone detection hardware and purchase SMDR software (which may not even exist at the present time) capable of associating the CPP tone with the called number and then capturing and recording this information for charge-back purposes. Next, in order to provide accurate charge-back information, the SMDR system would need to know the amount of each CPP charge which, as we have noted previously, will vary from carrier to carrier and is not easily available. While it is theoretically possible for such pricing information to be transmitted back to the originating party via multifrequency ("MF") tones or digital signals, the protocols for such transmissions have certainly not been established, nor has the means been developed for capturing and utilizing this information in the calling party's PBX.

The NOI observed that a number of techniques other than call intercept messages have been required by state commissions, such as the use of special NXX codes or a 1+ prefix, to identify called numbers that are subject to CPP charges.<sup>9</sup> In fact, unique NXX codes *must* be assigned to CPP CMRS telephones pursuant to local call rating protocols in order to permit the originating carrier's call detail recording equipment to correctly recognize the special call rating requirements and bill the originating customer accordingly. As the Commission observes, this technique is currently being used in Europe to identify wireless telephones.<sup>10</sup> Such an approach in the United States would require that one or more specific NXX codes be earmarked for uniform assignment in *all* NPAs – akin to uniform Feature Group B (950-XXXX) or directory assistance (555-1212) numbering sequences. Otherwise, consumers would be required to memorize and/or program their PBXs to recognize different CPP NXX assignments for every NPA in the country in order for the CPP NXX identifier to work. However attractive this suggestion may be in theory, it is simply unworkable as a practical matter because it is unlikely that an adequate supply of the same unassigned NXX codes is available in all NPAs.

In the past, the '1+' prefix was used exclusively as a toll identification digit; that is, local calls would never require a 1+ prefix, and toll calls would always require the use of 1+. In fact, in an *ex parte* letter filed in CC Docket 92-237, the Ad Hoc Committee urged the Commission to retain the use of 1+ as a toll

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<sup>9</sup> NOI, at ¶ 20.

identification digit following the January, 1995 implementation of "Interchangeable Numbering Plan Area" (INPA) codes.<sup>11</sup> That recommendation was not adopted by the Commission, and instead the specific dialing pattern determinations were left to the states.<sup>12</sup> Consequently, in many (perhaps most) jurisdictions, the 1+ prefix is used for the purpose of identifying a call that involves a different area code, rather than a toll charge. 1+ is thus required for all calls between NPAs, whether local or toll, and in many states the 1+ prefix is not used to identify toll calls placed to points within the calling party's home area code. Consequently, there is no practical means by which the 1+ prefix could be applied for purposes of identifying CPP calls.

Even if 1+ dialing could be consistently applied to CPP calls, those calls would still escape detection by the calling party. Callers would not be able to distinguish between ordinary toll calls and CPP calls. Such differentiation is required for consumer protection, however, since CPP calls involve, in addition to the toll transport charge, a terminating air time charge imposed by a CMRS carrier unknown and unselected by the calling party.

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<sup>10</sup> NOI, at fn. 28.

<sup>11</sup> See, Letter from Ad Hoc to the Commission (May 6, 1993). This was a joint letter from the Ad Hoc and a number of other parties urging the Commission to initiate a rulemaking proceeding on an expedited basis to review the patchwork of dialing plans that had been proposed by local telephone companies in connection with the (then) forthcoming (January 1, 1995) implementation of "Interchangeable NPA codes," and to consider specifically a proposal developed by the Ad Hoc Committee under which local and toll calls could be readily and consistently distinguished by the absence or presence, respectively, of the prefix digit "1".

<sup>12</sup> *In the Matter of Administration of the North American Numbering Plan*, CC Docket No. 92-237, Report and Order, 11 FCC Rcd 2588 (1995).

Additional problems arise in the typical business PBX setting. If NXX codes are used to identify CPP telephone numbers, a PBX would be required to perform a 6-digit (NPA-NXX) data base translation on each dialed number to ascertain whether the call is subject to any special rate treatment like CPP charges. Many PBXs do not possess such a capability. Moreover, even where the PBX possesses the functionality necessary for it to perform such screening, it will still be necessary for the PBX user to establish and update a table of all NPA-NXX codes that have been assigned for CPP use throughout the United States. This would force individual PBX users to subscribe to the necessary data bases (*e.g.*, Bellcore's Local Exchange Routing Guide, at \$9,000 per year) and/or to arrange for the necessary PBX table updates to be entered whenever a new CPP code is cut into service. With hundreds of thousands of PBXs currently in use throughout the U.S., the societal costs of imposing such burdens would be astronomical. Certainly any benefits to CMRS providers arising from such an approach to CPP balanced against the significant costs and burdens imposed on end users.

There is, however, a straightforward alternative to the intermixing of CPP numbers into conventional geographic NPAs: Telephone numbers assigned for CPP use can be readily identified and easily screened and blocked or otherwise processed as needed if all such numbers are assigned to a special Service Access Code ("SAC") that would be established for this purpose. While wireless carriers obviously prefer that CPP numbers would be integrated into the geographic NPAs

and thus become indistinguishable from "ordinary" telephone numbers, there is a compelling public interest in assuring that consumers be able to easily identify numbers for which special charges are to apply. If all CPP numbers are designated in a uniform manner through the use of a SAC, calls to such numbers would be more easily identified by the calling public and could be easily screened and blocked without imposing unreasonable burdens on PBX users. A single CPP SAC would have the capacity for up to 10 million CPP telephone numbers,<sup>13</sup> a quantity that should be more than sufficient to meet demand for many years to come. If necessary, additional SACs could be defined, as they have been for toll-free calling services.

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<sup>13</sup> Since all calls to the CPP SAC would be dialed on a 10-/11-digit basis, the 0XX and 1XX prefixes would be available for assignment as working numbers.



The compelling societal benefits of service-specific SAC-type numbering of CPP wireless telephones overrides any private interest that CMRS carriers may have in the use of conventional geographic NPA numbers. So long as calls to CPP numbers involve special charges that do not apply to calls placed to wireline telephones, the Ad Hoc Committee urges the Commission to protect consumers by requiring simple identification of any telephone numbers for which CPP or other special charges may apply.

Respectfully submitted,

**AD HOC TELECOMMUNICATIONS  
USERS COMMITTEE**

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January 16, 1998

### **Certificate of Service**

I, Andrew F. Baer, hereby certify that true and correct copies of the preceding Reply Comments of the Ad Hoc Telecommunications Users Committee in the Matter of Calling Party Pays Service Option in the Commercial Mobile Radio Services, WT Docket 97-207, were filed with the Secretary of the Commission and served upon ITS, via hand delivery, this 16<sup>th</sup> day of January, 1998.

  
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Andrew F. Baer

January 16, 1998